

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**DAVID BOUCHER,**

**Plaintiff,**

**v.**

**JEVIC TRANSPORTATION, INC.**

**Defendant.**

**DOCKET NO:**

**05-40111-106**

**NOTICE OF REMOVAL**

The defendant, Jevic Transportation, Inc. ("Jevic"), hereby petitions this Court that the above-entitled action, now pending against it in the Worcester Superior Court, Civil Action No. 05-1012B, be removed therefrom to this Court under 28 U.S.C. §1332. In support of this notice, Jevic states as follows:

1. On June 3, 2005, the plaintiff filed an action, styled and captioned as above and assigned Civil Action No. 05-1012B, for violation of Chapter 149, §27 (violation of overtime laws) and Chapter 151, §1A (violation of overtime laws).

2. The plaintiff served a copy of the Summons and Complaint upon Jevic on or about June 20, 2005.

3. Having been filed within 30 days of service of the Summons and Complaint upon Jevic, this Notice of Removal to the United States District Court has been filed in a timely manner pursuant to the provisions of 28 U.S.C. §1444(b). *See Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347-48 (1999).

RECEIPT # 1041204  
AMOUNT \$ 250.00  
BY DPTY CLK SGM  
DATE 7-6-05

4. Jevic will promptly provide written notice, as required by 28 U.S.C. § 1446(d), to the adverse party and clerk of the state court in which this case was initially filed.

5. Jurisdiction exists over this removed action, pursuant to 28 U.S.C. § 1441, because this action could originally have been filed in this Court, pursuant to 28 U.S.C. § 1332(a)(1), on the basis that there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000:

- (a) The defendant, Jevic Transportation, Inc., at the commencement of this suit was and has continued to be a New Jersey corporation having its principal place of business in Delanco, New Jersey;
- (b) Based on the Complaint, the plaintiff is an individual residing in the Town of Charlton City, Massachusetts; and
- (c) The amount of damages sought by the plaintiff exceeds \$75,000.00.

6. In determining whether the amount in controversy requirement has been met, courts apply the “legal certainty” test which requires that a court dismiss an action if “it appears to a legal certainty that the plaintiff’s claim is for less than the jurisdictional minimum.” *Giangrande v. Shearson Lehman/E.F. Hutton*, 803 F. Supp. 464, 467 (D. Ma. 1992) (citing *St. Paul Mercury Indemnity Co. v. Red Cab Co.*, 303 U.S. 283, 288-89 (1938)). Although attorneys’ fees do not usually constitute part of the amount in controversy for determining diversity jurisdiction, reasonable attorneys’ fees can be included in an assessment of the amount in controversy when such attorneys fees are provided by statute. *Spielman v. Genzyme Corp.*, 193 F.R.D. 19, 21 (D. Ma. 2000). In the instant case, attorney’s fees are provided by Chapter 149 and plaintiff is seeking attorneys fees under the statute.

7. In the instant case, plaintiff seeks triple damages for lost overtime and wages over the course of seven years, as well as attorney's fees associated with this action. As such, plaintiff's claim exceeds \$75,000 in damages and allowable fees.

8. Pursuant to 28 U.S.C. §§ 101 and 1441(a), the United States District Court for the District of Massachusetts is the proper forum for the removal of the state court action which was commenced in the Worcester Superior Court.

WHEREFORE, the defendant, Jevic Transportation, Inc., requests that the action pending in the Superior Court in Worcester County be removed therefrom to this Court and proceed as an action properly so removed.

Respectfully Submitted,

Morrison Mahoney LLP

By: 

Gary W. Harvey, BBO #547993  
Tory A. Weigand, BBO #548553  
250 Summer Street  
Boston, MA 02210-1181  
Tel: (617) 439-7500  
Fax: (617) 342-4875 – Harvey  
Fax: (617) 342-4947 – Weigand

and

BRYAN CAVE LLP

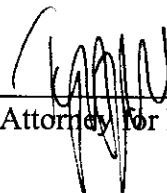
Jeremiah J. Morgan, pro hac vice pending  
3500 One Kansas City Place  
1200 Main Street  
Kansas City, MO 64105  
Tel: 816-391-7647  
Fax: 816-374-3000  
ATTORNEYS FOR DEFENDANT JEVIC  
TRANSPORTATION, INC.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing was served via United States mail, first class postage prepaid on this 6th day of July, 2005, addressed to the following counsel of record:

Raymond A. Desautels III, Esq.  
466 Main Street, P.O. Box 289  
Oxford, MA 01540

Attorney for Plaintiff

  
\_\_\_\_\_  
Attorney for Defendant

**FILED**

JUN 03 2005

**05-40111**

ATTEST:

CLERK

COMMONWEALTH OF MASSACHUSETTS  
THE TRIAL COURT

WORCESTER, SS.

SUPERIOR COURT DEPARTMENT  
CIVIL ACTION NO.:

05-1012 **B**

DAVID BOUCHER,  
Plaintiff,

vs.

JEVIC TRANSPORTATION, INC.  
Defendant

COMPLAINT AND DEMAND  
FOR TRIAL BY JURY

PARTIES

1. The Plaintiff, David Boucher, is an individual residing at 30B Brookfield Road in the Town of Charlton City, County of Worcester, Commonwealth of Massachusetts, (hereinafter referred to as "Boucher").

2. The Defendant, Jevic Transportation, Inc., upon information and belief, is a corporation duly authorized to operate in the Commonwealth of Massachusetts with an office at 6 Pioneer Drive in the Town of Oxford, County of Worcester, Commonwealth of Massachusetts (hereinafter referred to as "Jevic").

3. At all times here mentioned, the Plaintiff, David Boucher, was an employee of Jevic as a warehouse worker operating a fork truck and unloading and loading of trucks.

4. Boucher began working at Jevic on August 1, 1998. During the course of his employment, he always worked on the dock as a fork truck operator.

5. During the course of Boucher's employment his pay rate gradually rose to a maximum of \$19.40 per hour.

6. During the course of Boucher's employment he worked more than forty hours per week many times.


7. Jevic never paid Boucher time and one-half for any hours worked over forty hours in a single work week.

COUNT I  
NON-PAYMENT OF OVERTIME

9. The above-referenced actions of the Defendant, Jevic, are in willful violation of Chapter 149, §27 and Chapter 151, §1A which require employers to pay time and one-half after a forty hour work week.

WHEREFORE, the Plaintiff requests actual lost wages since the date of his employment plus triple damages as allowed by statute, attorney's fees and costs of collection.

Respectfully Submitted,  
DAVID BOUCHER,  
By His Attorney,



---

Raymond A. Desautels III, Esquire  
466 Main Street, P.O. Box 289  
Oxford, MA 01540  
(508) 987-6232  
BBO #560505

Dated: May 27, 2005

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

**FILED**

JUN 22 2005

Superior Court  
Department of the Trial Court  
of the Commonwealth  
Civil Action

No. 05-1012B

DAVID BOUCHER

ATTEST:

*Francis A. Ford*

CLERK

Plaintiff (X)

v.

JEVIC TRANSPORTATION, INC.

Defendant (X)

**SUMMONS**

\* To the above-named Defendant:

You are hereby summoned and required to serve upon Raymond A. Desautels, III, Esquire, plaintiff's attorney, whose address is 466 Main Street, P.O. Box 289, Oxford, MA 01540 an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the SUPERIOR COURT Department of the Trial Court at WORCESTER either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13 (a), your answer must state as a counter-claim any claim which you may have against the plaintiff which arises out of the transaction of occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Barbara J. Rouse CHIO, Esquire, at Worcester, the 16th day of June in the year of our Lord two thousand and 2005.

*Francis A. Ford*  
Clerk

NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to that particular defendant.

PLEASE CIRCLE TYPE OF ACTION INVOLVED: TORT — MOTOR VEHICLE TORT — CONTRACT. EQUITABLE RELIEF — CH. 93A — MEDICAL MALPRACTICE — OTHER.

\*

NOTICE TO DEFENDANT: You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein AND also file the original in the Clerk's Office, Superior Court, Room 21.



**Worcester County Sheriff's Office** • P.O. Box 1066 • Worcester, MA 01613 • (508) 752-1100  
 Worcester, ss

I hereby certify and return that on 06/20/2005 at 01:15pm I served a true and attested copy of the Summons and Complaint & Demand for Trial by Jury, Civil Action Cover Sheet, Tracking Order F Track in this action in the following manner: To wit, by delivering in hand to DAVID BARTOLICCI, agent, person in charge at the time of service for JEVIC TRANSPORTATION, INC at 6 PIONEER DR, OXFORD, MA. Fees: Service 30.00, Travel 8.96, Conveyance 4.50, Attest 5.00 & Postage and Handling 1.00, Total fees: \$49.46

Deputy Sheriff Paul R Almstrom

*[Signature]*  
 Deputy Sheriff

**N.B. TO PROCESS SERVER:**

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN THIS BOX  
 ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.

, 20

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

Superior Court  
 Civil Action

No.

Plaintiff

v.

Defendant

SUMMONS

(Mass. R. Civ. P. 4)



CIVIL ACTION  
COVER SHEET

05-1012

Trial Court of Massachusetts  
Superior Court Department  
County: \_\_\_\_\_

PLAINTIFF(S)

David Boucher

DEFENDANT(S)

Jevic Transportation

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE (508) 987-6232  
Raymond A. Desautels III, Esquire  
466 Main Street, P.O. Box 289  
Oxford, MA 01540  
Board of Bar Overseers number: 560505

ATTORNEY (if known)

## Origin code and track designation

Place an x in one box only:

☒ 1. F01 Original Complaint☐ 2. F02 Removal to Sup.Ct. C.231,s.104  
(Before trial) (F)☐ 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)☐ 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)☐ 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)☐ 6. E10 Summary Process Appeal (X)

## TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO.

TYPE OF ACTION (specify)

TRACK

IS THIS A JURY CASE?

B99

Other - Tort

( F )

( X ) Yes

( ) No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

## TORT CLAIMS

(Attach additional sheets as necessary)

## A. Documented medical expenses to date:

1. Total hospital expenses .....	\$ .....
2. Total Doctor expenses .....	\$ .....
3. Total chiropractic expenses .....	\$ .....
4. Total physical therapy expenses .....	\$ .....
5. Total other expenses (describe) .....	\$ .....

Subtotal \$ .....

## B. Documented lost wages and compensation to date .....

\$ .....

## C. Documented property damages to date .....

\$ .....

## D. Reasonably anticipated future medical and hospital expenses .....

\$ .....

## E. Reasonably anticipated lost wages .....

\$ .....

## F. Other documented items of damages (describe) .....

\$ .....

## G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

\$ .....

\$ .....

TOTAL \$ .....

## CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

Plaintiff did not receive time and one-half for hours worked over 40 hours. Statute allows for triple damages and attorney's fees.

TOTAL \$ 45,000

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

Raymond A. Desautels III

DATE: 5/27/05

# **CIVIL ACTION COVER SHEET INSTRUCTIONS**

## **SELECT CATEGORY THAT BEST DESCRIBES YOUR CASE**

<b>CONTRACT</b>		<b>REAL PROPERTY</b>		<b>MISCELLANEOUS</b>	
A01	Services, labor and materials (F)	C01	Land taking (eminent domain) (F)	E02	Appeal from administrative Agency G.L. c. 30A (X)
A02	Goods sold and delivered (F)	C02	Zoning Appeal, G.L. c.40A (F)	E03	Action against Commonwealth Municipality, G.L. c.25B (A)
A03	Commercial Paper (F)	C03	Dispute concerning title (F)	E05	All Arbitration (X)
A08	Sale or lease of real estate (F)	C04	Foreclosure of mortgage (X)	E07	c.112,s.12S (Mary Moe) (X)
A12	Construction Dispute (A)	C05	Condominium lien and charges (X)	E08	Appointment of Receiver (X)
A99	Other (Specify) (F)	C99	Other (Specify) (F)	E09	General contractor bond, G.L. c.149,s.29,29a (A)
<b>TORT</b>		<b>EQUITABLE REMEDIES</b>		E11	Workman's Compensation (X)
B03	Motor Vehicle negligence-personal injury/property damage (F)	D01	Specific performance of contract (A)	E14	Chapter 123A Petition-SDP (X)
B04	Other negligence-personal injury/property damage (F)	D02	Reach and Apply (F)	E15	Abuse Petition, G.L.c.209A (X)
B05	Products Liability (A)	D06	Contribution or Indemnification (F)	E16	Auto Surcharge Appeal (X)
B06	Malpractice-medical (A)	D07	Imposition of Trust (A)	E17	Civil Rights Act, G.L.c.12,s.11H (A)
B07	Malpractice-other(Specify) (A)	D08	Minority Stockholder's Suit (A)	E18	Foreign Discovery proceeding (X)
B08	Wrongful death, G.L.c.229,s.2A (A)	D10	Accounting (A)	E96	Prisoner Cases (F)
B15	Defamation (Libel-Slander) (A)	D12	Dissolution of Partnership (F)	E97	Prisoner Habeas Corpus (X)
B19	Asbestos (A)	D13	Declaratory Judgment G.L.c.231A (A)	E99	Other (Specify) (X)
B20	Personal Injury-Slip&Fall (F)	D99	Other (Specify) (F)		
B21	Environmental (A)				
B22	Employment Discrimination (F)				
B99	Other (Specify) (F)				

**TRANSFER YOUR SELECTION TO THE FACE SHEET.**

**EXAMPLE:**

<b>CODE NO.</b>	<b>TYPE OF ACTION (SPECIFY)</b>	<b>TRACK</b>	<b>IS THIS A JURY CASE?</b>
B03	Motor Vehicle Negligence-Personal Injury	(F)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

## **SUPERIOR COURT RULE 29**

**DUTY OF THE PLAINTIFF.** The plaintiff or his/her counsel shall set forth, on the face sheet (or attach additional sheets as necessary), a statement specifying in full and itemized detail the facts upon which the plaintiff then relies as constituting money damages. A copy of such civil action cover sheet, including the statement as to the damages, shall be served on the defendant together with the complaint. If a statement of money damages, where appropriate is not filed, the Clerk-Magistrate shall transfer the action as provided in Rule 29(5)(C).

**DUTY OF THE DEFENDANT.** Should the defendant believe the statement of damages filed by the plaintiff in any respect inadequate, he or his counsel may file with the answer a statement specifying in reasonable detail the potential damages which may result should the plaintiff prevail. Such statement, if any, shall be served with the answer.

**A CIVIL ACTION COVER SHEET MUST BE FILED WITH EACH COMPLAINT, BUFF COLOR PAPER.**

**FAILURE TO COMPLETE THIS COVER SHEET THOROUGHLY AND ACCURATELY  
MAY RESULT IN DISMISSAL OF THIS ACTION.**

JS 44 (Rev. 11/04)

CIVIL COVER SHEET **05-40111**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

David Boucher

(b) County of Residence of First Listed Plaintiff Worcester  
(EXCEPT IN U.S. PLAINTIFF CASES)

508-987-6232

(c) Attorney's (Firm Name, Address, and Telephone Number)  
Raymond A. Desautels, III  
466 Main Street, Oxford, MA 01540

**DEFENDANTS**

Jevic Transportation, Inc.

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known) Tory A. Weigand, BBO #548553  
Gary W. Harvey, BBO #547993  
Morrison Mahoney LLP  
250 Summer Street, Boston, MA 02210  
(617) 439-7500

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                            |   |                            |                                       |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
|   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input checked="" type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:  
employment claim for damages

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☐ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE F. Dennis Saylor, IV

DOCKET NUMBER 2005-40109

DATE

7/6/05

SIGNATURE OF ATTORNEY OF RECORD

Tory A. Weigand *Tory A. Weigand*

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

05-40111

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) David Boucher v. Jevic Transportation

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- ☐ I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950. \*Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 480, 490, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

Jason Christiansen v. Jevic Transportation, Inc., C.A. No. 2005-40109

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒

7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES ☐ NO ☒

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☒ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Tory A. Weigand, Esquire, BBO #548553

ADDRESS 250 Summer Street, Boston, MA 02210

TELEPHONE NO. 617-439-7500